



## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Pre-trial detainees have a constitutional right to reasonable and adequate nourishment and medical care,<sup>1</sup> but the cost of the medical care is the primary responsibility of the person receiving the medical care.<sup>2</sup> A medical services provider shall recover the expenses of medical care, treatment, hospitalization, and transportation for a person ill, wounded, or otherwise injured during or at the time of arrest for any violation of state law or a county or municipal ordinance from first, insurance; second, from the person receiving medical care; and finally from a financial settlement for the medical costs.<sup>3</sup>

When reimbursement from these sources is unavailable, the cost of medical care shall be paid from the general fund of the county in which the person was arrested. If the arrest was for violation of a municipal ordinance then the municipality shall pay the medical service provider.<sup>4</sup> Section 951.032, F.S., articulates the local government's rights for reimbursement from the person seeking medical attention.<sup>5</sup>

The injury or illness need not be caused by the arrest.<sup>6</sup> The responsibility for payment of medical costs exists until the arrested person is released from the custody of the arresting agency. The rates medical service providers can charge local governments are not capped.<sup>7</sup> At least one Florida appellate court has held that the costs of medical services are not among the costs covered by the constitutional

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<sup>1</sup> *Williams v. Ergle*, 698 So.2d 1294 (Fla. 5th DCA 1997).

<sup>2</sup> Section 901.35, F.S.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> See *Williams v. Ergle*, 698 So.2d 1294, (5th DCA 1997) (stating that pretrial detainees are prisoners for the purposes of state statutes allowing recovery of certain medical expenses from prisoners).

<sup>6</sup> See *North Brevard County Hospital District v. Brevard County Bd. of County Commissioners*, 899 So.2d 1200, 1202-03 (Fla. 5th DCA 2005) ("One cannot fault Brevard County or the trial court in its attempt to circumvent section 901.35. The implications of the statute can be financially devastating to a local government in view of the ever increasing cost of medical care, especially when the Legislature has not placed a cap on the liability of government.") (citing Joseph G. Jarret, *The High Cost of Arrestee Medical Treatment: The Effects of F.S. § 901.35 on Local Government Coffers*, 78 FLA. B.J. 46 (Nov. 2004)); Op. Atty. Gen. 85-6, Feb. 4, 1985).

<sup>7</sup> Joseph G. Jarret, *The High Cost of Arrestee Medical Treatment: The Effects of F.S. § 901.35 on Local Government Coffers*, 78 FLA. B.J. 46 (Nov. 2004).

provision that prohibits compelling persons charged with a crime to pay costs before a judgment of conviction has become final.<sup>8</sup>

### **Medicaid Rates**

Pursuant to s. 409.908, F.S., reimbursement for Medicaid providers varies by type of provider. Medicaid provider rates are set forth in the Florida Agency for Health Care Administration's rules, policy manuals, and Medicaid provider handbooks.<sup>9</sup> Medicaid provider payment methodology includes: fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding, and other methods the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Medicaid reimbursement is subject to any limitations or directions provided for the General Appropriations Act (GAA).

### **Proposed Changes**

This bill would allow a county or municipality to pay medical costs of a person who has been arrested at Medicaid rates if no formal written agreement exists between the county or municipality and the healthcare provider.

Medical costs include medical care, treatment, hospitalization, and transportation.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 901.35, F.S., relating to financial responsibility for medical expenses.

Section 2. Provides an effective date of July 1, 2010.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

This bill would act as a cost savings measure for counties and municipalities by capping the cost of medical services provided to persons ill, wounded, or otherwise injured during or at the time of arrest at the state's Medicaid rate.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Providers of medical care, treatment, hospitalization, and transportation may receive decreased revenue when providing services to arrested parties when the person receiving the services cannot

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<sup>8</sup> *Williams v. Ergle*, 698 So.2d 1294 (Fla. 5th DCA 1997) (citing Art. I, s. 19, Fla. Const).

<sup>9</sup> See AGENCY FOR HEALTH CARE ADMINISTRATION, FEE SCHEDULES,

[http://portal.flmmis.com/FLPublic/Provider\\_ProviderSupport/Provider\\_ProviderSupport\\_FeeSchedules/tabId/44/Default.aspx](http://portal.flmmis.com/FLPublic/Provider_ProviderSupport/Provider_ProviderSupport_FeeSchedules/tabId/44/Default.aspx);

[http://ahca.myflorida.com/Medicaid/cost\\_reim/index.shtml](http://ahca.myflorida.com/Medicaid/cost_reim/index.shtml).

provide for payment of the costs and when the provider does not have a formal written agreement with the county or municipality in which the person was arrested.

D. FISCAL COMMENTS:

See above.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**